

# EXHIBIT P

### **DECLARATION OF TARA SCULLY**

I, Tara Scully, declare as follows:

1. I am over 18 years of age and have personal knowledge of the facts set forth in this declaration. If called as a witness, I could testify competently regarding them.

2. I am currently employed as a Café Manager of the Barnes & Noble Booksellers, Inc. ("Barnes & Noble") store located in The Villages, FL (Store #2264). I have been working at Barnes & Noble for over 17 years. Prior to becoming a Café Manager, I also worked for Barnes & Noble as a Department Manager. I have worked as a Café Manager and a Department Manager at a different Barnes & Noble store located in Clearwater, FL for six years during my tenure at Barnes & Noble.

3. My current Store Manager is Becky Boldizar, who has been in that position since September, 2013.

4. I acknowledge that, before asking me questions about my employment, an attorney representing Barnes & Noble (1) explained to me that a Café Manager, Christine Hartpence, had filed a lawsuit against Barnes & Noble; (2) provided a brief overview of the allegations and claims in the lawsuit; (3) explained that Ms. Hartpence brought the lawsuit on behalf of herself and was seeking to bring it on behalf of other Café Managers, including me; (4) told me that my participation in the interview was completely voluntary; and (5) told me that I will not be subject to retaliation regardless of whether I choose to participate in the interview or as a result of any information that I provide. The attorney provided me with the opportunity to ask questions. I then elected to proceed with the discussion. After our initial discussion, the attorney contacted me to inform me that Ms. Hartpence had dismissed her lawsuit, but that a former Café Manager named Kelly Brown had filed a lawsuit with similar allegations, which he summarized for me. After

receiving this updated information, I agreed to answer additional questions and to sign this declaration, which was prepared from the information I provided. Before executing this declaration, I was given the opportunity to review it and ensure its accuracy, which I did. I understand that Barnes & Noble will use the information provided to attempt to demonstrate that the alleged experiences of Ms. Brown were not representative and, further, that Barnes & Noble has not violated any laws.

5. In 2000, I received Café Manager training at Barnes & Noble's store in Brandon, FL. My training lasted three to four days and I worked only 8 hours a day. During this training period, among other things, I learned the day-to-day operations of the café, how to prepare schedules, and how to prepare café drinks.

6. As a Café Manager, my work varies from day to day. In addition, the amount of time that I spend on any particular task varies on any given day. Moreover, the work that I do on any given day is not the same as what other Café Managers might do that day, depending on many factors such as the volume of a store, their shifts, and the needs of the store on that day. I know this first-hand because I have worked at two Barnes & Noble stores and my responsibilities varied at each store.

7. My store currently employs approximately 35-40 non-manager employees. During the holiday season, my store will hire 5-10 additional non-manager employees to assist with the increase in demand.

8. While the number of café employees I manage varies throughout the year, I generally manage the work of five to eight employees. Currently, I am supervising six Café Servers and one Café Lead.

9. Café Servers are primarily responsible for preparing and serving drinks and food, and for excellent customer service in the café. The Café Lead at my store is responsible for those things but is also responsible for working with me to train new Café Servers, assist me with tracking inventory, and provide coaching to café employees.

10. I am responsible to train new café employees in my store. I sometimes delegate the responsibility to train new Café Servers to my Café Lead. We decide how to conduct the training and determine when a new employee is properly trained or, if not, what areas need further training. On average, training will take two weeks, but it is ultimately up to me to decide whether an employee is ready to work a regular shift without direct supervision from the Café Lead or me. I also determine whether current café employees are in need of additional training based on my observations of their performance and ability while supervising the café. Whether and how I delegate such things to my Café Lead is based on my discretion. In the past year, I have trained approximately four Café Servers.

11. In my store, hiring for Café Servers is a collaborative effort. Once a job opening has been posted online, I have my Café Lead review job applications and conduct screening interviews. After that, I conduct the first round of in-person interviews of candidates and my Store Manager will conduct the second round of in-person interviews. After these interviews, the Store Manager and I will discuss our observations and opinions about the candidate before I make the hiring decision. Because my café has low turnover, my café does not hire many new employees in a given year.

12. I evaluate employee performance and prepare annual reviews of Café Servers and Café Leads. I am the primary author of the reviews. Once the reviews are prepared, my Store Manager will read and sign-off on the reviews after making minor changes, if any, to the reviews.

I also meet with employees to discuss their reviews on a one-on-one basis and provide them guidance as to how to improve their performance.

13. As a Café Manager, I also conduct “in the moment” coaching to Café Servers and Café Leads when I observe that a café employee needs guidance in a particular area, such as customer service standards or when to upsell café items to customers. I provide this type of coaching to each of my employees several times a day. I use “in the moment” coaching opportunities to have prompt, frank discussions with café employees about improving in specific areas. Once I provide this coaching, I routinely follow-up with the café employees to ensure they are making progress. I also utilize this coaching as an opportunity for café employees to correct their performance before any formal disciplinary action needs to be implemented.

14. I am also responsible for the P&L of the café. Therefore, one of my responsibilities as a Café Manager is figuring out ways to increase sales. I review sales reports to figure out items that, in my judgment, should be selling better. I then work with and coach Café Servers and my Café Lead on promoting those items and attempting to upsell them during customer interactions. I believe that training and coaching café employees correctly is the single, best way to increase sales in the café. I also track the success of these efforts by analyzing weekly sales reports and will adjust the café’s focus accordingly. Decisions concerning how to increase sales and which products to focus on are mine, based on my discretion and analysis of the financial data I receive.

15. I also provide incentives to café employees to boost their individual café sales. For example, I track the individual sales of all café employees and will often recognize the café employee who made the most sales in a given week by purchasing a beverage for them. This is a method that I created to generally increase sales in the café and to create an environment where café employees are incentivized to increase their individual sales. Because of these incentives, my

café is consistently one of the higher grossing cafés in my district even though we are located at a lower-volume store.

16. I am eligible to receive a bonus based on achieving two goals: the café's sales goal and gross profit margin goal. The café's gross profit margin is determined by the café's overall sales performance as compared to the café's waste. A majority of my responsibilities involve monitoring the café's sales and product waste and then making decisions that will improve those financial numbers. For example, I routinely monitor and adjust the amount the café spends on products for the café. Determining the correct amount to order and the correct amount of food to prepare is an important part of meeting this goal. Every week, I determine how much product we should order based on recent sales, financial reports, and our projected traffic for the upcoming days. I use my judgment to determine the café order and do not need or seek approval from any other manager. I sometimes delegate ordering responsibility to my Café Lead in an effort to develop their managerial skills and knowledge.

17. It is also my responsibility to make sure that café employees are on task. I generally delegate this task to my Café Lead who reviews their weekly and daily activity sheet and holds them accountable to this sheet by directing their work.

18. At my store, the Assistant Store Manager is responsible for preparing the schedules for all employees using a program called Day Force. Once the schedule is prepared, I review the schedules to ensure that the café is appropriately staffed for days which are generally busier than other days, especially if I expect the store to host an event. I currently spend one hour a week reviewing the schedules prepared by the Assistant Store Manager. Prior to the implementation of Day Force, I spent approximately one to two hours a week preparing schedules.

19. Throughout a given week, I also make additional decisions regarding optimum staffing levels for the café. In making these decisions, I review the café's financial goals, the store's budgeted payroll, how busy the store is and how busy I expect it to be. If the café is short-staffed on any given day, I call Café Servers who are not scheduled to work that day and ask them if they wish to work an extra shift that week. If no Café Server wishes to work the extra shift, I ask a cross-trained Bookseller (one who is trained both as a Bookseller and a Café Server) if they can assist in the café that day.

20. I have the authority to discipline employees as appropriate. For instance, I have issued verbal warnings to Café Servers for tardiness, ringing themselves up on the register and if they are "over/short" with their cash handling on the register. When I issue a verbal warning, I document this warning in a "verbal counseling log." For more serious infractions and in rare situations, I recommend placing employees on improvement plans. Before placing an employee on an improvement plan, I coordinate with my Store Manager and Human Resources.

21. As a Café Manager, I occasionally deal with customer complaints in the café. Generally, Café Servers and Leads are trained to handle customer complaints but they are instructed to seek out the Café Manager if the situation warrants it. I have the authority to issue refunds if necessary.

22. I am also responsible to ensure the café is in compliance with local, state and federal health codes. I supervise Café Servers and Leads to ensure that they are following food safety guidelines and keeping the café area in compliance with those codes. I am also responsible for ensuring the proper maintenance of the equipment in the café.

23. In my experience at my current store, the majority of my working time is spent on managerial duties such as directing the work of café employees, providing in the moment

counseling, training new Café Servers, figuring out ways to increase sales and reduce waste, evaluating job applicants and making hiring decisions. This time includes managing the café and directing the work of two or more employees. Overall, the majority of my work as a Café Manager requires me to exercise my own judgment on how to manage the café and supervise my employees, including what tasks should be delegated to my Café Lead.

24. When I am working in the café alongside the employees, I am always acting as their manager and I am always supervising the employees. I am always looking for areas that need improvement, identifying things that I or a Lead need to provide coaching on, ensuring that café employees are following food safety and preparation guidelines, and, most important, making sure that the entire café (including employees) is meeting Barnes & Noble's standards for providing an outstanding experience for the customer.

25. While the coverage in the café varies from week to week, and day to day, in my experience at my current store, I am the only employee responsible for the café for approximately two to three hours during any given shift. Generally, this occurs only when other café employees are taking their regularly scheduled breaks and when I am assigned to open or close the café.

26. Prior to October 30, 2016, and otherwise throughout my employment as a Café Manager, I was being compensated on a salary basis at a rate of more than \$455 per week.

27. In a typical week, I work 40 hours per week, but no more. When I work beyond my scheduled shift it is solely in my discretion. In cases where I stay past my scheduled time, I make up for the extra hours worked by leaving early from another shift later that week to ensure that I am only working 40 hours per week.



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28. I believe that I have been paid properly while working as a Café Manager. If I had a complaint or concern about my pay, I would be comfortable raising it internally, without fear of retaliation.

Pursuant to the laws of the United States of America, I declare under penalty of perjury that the foregoing is true and correct. Executed on December 13, 2016.

  
TARA SCULLY